

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DOC #:

DATE FILED: DEC 19 2012

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MICROSOFT CORPORATION,

Plaintiff,

-v-

DATATERN, INC.,

Defendant.

11 Civ. 2365 (KBF)

11 Civ. 2648 (KBF)

ORDER

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SAP AG and SAP AMERICA, INC.,

Plaintiffs,

-v-

DATATERN, INC.

Defendant.

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KATHERINE B. FORREST, District Judge:

As set forth on the record on December 14, 2012, it is hereby ORDERED that:

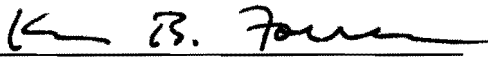
1. In response to defendant's motion for clarification of this Court's June 7, 2012, Order: as discussed on the record at the conference of December 14, 2012, the Court's order encompasses all products that were or could have been accused as infringing the '402 Patent, not merely BusinessObjects.
2. Defendant's motion to amend/correct is DENIED in light of the late stage of the litigation and the Court's orders at the December 14, 2012, conference.

3. Plaintiffs' motions for summary judgment of noninfringement are GRANTED on the basis of defendant's concessions that there are four separate reasons why it cannot prove infringement in light of this Court's Markman decision of August 24, 2012. The Court expresses no opinion on the merits of the other grounds plaintiffs have asserted for summary judgment and declines to address them as unnecessary to the resolution of this motion. Plaintiffs' claims for declaratory judgment of invalidity are dismissed without prejudice as moot.
4. For the reasons stated on the record in the December 14, 2012, conference, the Court GRANTS plaintiffs SAP America, Inc., and SAP AG's (collectively, "SAP") motion to enjoin DataTern, Inc., and all attorneys or other persons in active concert or participation with DataTern, Inc., from directly or indirectly charging infringement, or instituting any further action for infringement of the '402 or '502 Patents against SAP or any of its customers, licensees, distributors, users, or suppliers for technology purchased from SAP.
5. In light of the above rulings, the Court DENIES defendant's Rule 56(d) motion as moot.

The Clerk of Court is directed to terminate all open motions (Docket Nos. 113, 152, 162, & 165 in 11 Civ. 2365; and Nos. 120, 166, 171, 174, 177, & 192 in 11 Civ. 2648) in the above-captioned matters and to terminate both actions.

SO ORDERED:

Dated: New York, New York
December 19, 2012



KATHERINE B. FORREST
United States District Judge